



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

File: WAC 98 228 51490 Office: California Service Center Date:

NOV 15 2000

IN RE: Petitioner:  
Beneficiary:

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

Public Copy

IN BEHALF OF PETITIONER:

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Mary C. Mulrean, Acting Director  
Administrative Appeals Office

NOV 15 2000 - 02 00 00

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in the field of economics. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the Service regulation at 8 C.F.R. 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

Counsel states:

[The petitioner] is an exceptional teacher and an expert in the Chinese economy and efficiency studies. His work broadens public and U.S. government understanding of China's economic

development and its impact on U.S. economic growth in and beyond the 21<sup>st</sup> century. His work also improves the competitiveness of U.S. firms in the global economy through study of production efficiency. . . .

[The petitioner's] teaching expertise is of great significance to the U.S., as he possesses in depth knowledge of China and its economy. . . .

In addition to his teaching, [the petitioner] is also extensively involved in research of the Chinese economy. He has made significant contributions to the university's<sup>1</sup> research of China's industrial economics, particularly in applying sophisticated econometric techniques to test the productivity and growth performance of Chinese industrial sectors.

The regulation at 8 C.F.R. 204.5(h) (3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence which, he claims, meets the following criteria.

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.*

Counsel cites various honors the petitioner received between 1984 and 1988. These honors amount to scholarships and student prizes, recognizing the petitioner's academic achievements rather than his accomplishments as an actual, professional economist. University study is not a field of endeavor. The record does not indicate that the petitioner has received any significant awards since entering his current occupation.

Counsel asserts that the petitioner "has also written research proposals which have been granted over HK\$500,000.00 (Approximately \$80,000 U.S.) in funding." Such grants appear to be a routine means of funding research. The petitioner has not shown that only the top economic researchers receive grants, or that he has

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<sup>1</sup>Counsel does not specify which university, but counsel presumably refers to [REDACTED] where the petitioner was hired as an assistant professor in 1991.

attracted significantly more research funding than almost anyone else in his field.

Furthermore, the research grants are all from [REDACTED] where the petitioner is on the faculty. Such grants from his own employer are not evidence of recognition beyond the walls of that university.

*Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.*

Counsel states that the petitioner fulfills this criterion, having acted as a referee for manuscripts submitted to the Journal of Comparative Economics. For more information regarding this review work, a letter in the record suggests that the reader contact Professor [REDACTED] of [REDACTED] where the petitioner works. If the petitioner reviewed the manuscripts at the invitation of a fellow faculty member, then it is not at all apparent that the petitioner's reputation was a significant factor in his being invited to review the manuscripts in question. The record offers no details about this review work apart from the one-sentence letter referenced above.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

Counsel states:

[The petitioner] has performed original research where he obtained actual firm data on the degree of workers' participation in the decision-making processes of companies. His research . . . has been used by many for economic analysis (Section V, 5). In addition to using the cutting-edge DEA [Data Envelopment Analysis] technique to analyze the productivity issue of Chinese enterprises, [the petitioner] uses descriptive statistics to relate educational levels, inflation, government policies, research and development, and other variables with the economic development of China. The reports he produces are utilized by companies and government officials.

The cited exhibit at "Section V, 5" is a letter from one of the petitioner's former professors at the [REDACTED]

Prof. [REDACTED] does not offer any more precise information about how many people use the petitioner's data, who those people are, or how Prof. [REDACTED] knows for a verifiable fact that "many" people have used the petitioner's research. Prof. [REDACTED] does not indicate that the petitioner is nationally or internationally

acclaimed, or otherwise at the top of his field. Prof. [REDACTED] letter makes repeated references to a lesser visa classification. It appears that the letter, along with many other letters in the record, was initially prepared for submission with a second visa petition seeking classification under section 203(b)(2) of the Act.

With regard to the use of the petitioner's reports "by companies and government officials," the very purpose for producing statistical reports in the first place is so that they may be used by the clients who commissioned those reports. Thus, the fact that the petitioner's clients actually use the information he provides to them does not demonstrate a major, original contribution.

Most of the letters submitted with the petition are from faculty members of the [REDACTED] (which the petitioner attended), [REDACTED] (where the petitioner is on the faculty). These witnesses praise the petitioner's skills as a teacher and researcher, and they list his achievements, but they do not indicate that the petitioner is responsible for particularly major original contributions to his field.

An additional witness, [REDACTED] managing director of [REDACTED], is not connected with either of the above universities but states that he has known the petitioner "since 1978," when the petitioner was 18 years old. Clearly, [REDACTED] knowledge of the petitioner and his work are not dependent on any national or international reputation. [REDACTED] deems the petitioner to be "not only an expert and a person of authority in the area of Chinese economics, but also a person highly recognized by academic and industrial circles." To reliably demonstrate that the petitioner is widely recognized, the petitioner cannot rely predominantly on letters from his own mentors, co-workers, and long-time acquaintances. Such individuals would be familiar with the petitioner's work whether or not he was more widely known. The petitioner has not shown that the opinions of these witnesses are widely shared by experts in the field who have no such connections with him.

Any reputation outside of universities and clients?

The petitioner also submits a copy of a letter from 1981, discussing the petitioner's work for a church mission. This letter says nothing of the petitioner's work in economics, and in fact predates the petitioner's college education by several years. This letter has no relevance to the matter at hand.

*Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

The petitioner is the author or co-author of several book chapters, journal articles, and conference presentations. The importance of this evidence is diminished somewhat by the absence of evidence to allow a comparison between the petitioner's output and that of others in the field.

The director denied the petition, stating that the petitioner has not shown that he has earned significant recognition or acclaim beyond the institutions where he has worked or studied, or that his entry would substantially benefit the United States. On appeal, counsel contends that the petitioner has demonstrated sustained acclaim through original research, authorship of published articles, and judging manuscripts for the Journal of Electronic Imaging. Counsel appears to refer to the work of another client; the petitioner in this matter is an economist, with no clear connection to the field of electronic imaging. This same error appears in the brief that accompanied the initial filing.

As noted above, the petitioner has reviewed articles for one journal, but the very sparse evidence in this area indicates a close connection between that journal and Hong Kong Baptist University (or at least a faculty member there). The petitioner does not automatically attain acclaim because a colleague at his workplace has asked him to review manuscripts.

Similarly, the very fact that the petitioner has conducted research and published his findings does not establish him as a leading figure in his field (which he must be to qualify for this extremely restrictive visa classification). Counsel repeats the assertion that "[t]he reports [the petitioner] produces are utilized by companies and government officials," but fails to explain how this assertion elevates the petitioner above almost all others in his field; the implication is that most economists produce useless reports, or no reports at all, with only an elite few producing useful information.

The petitioner's publication record is stronger, but even then nothing in the record compares the petitioner's publications, in terms of quantity or quality, to those of others in the field. An individual is not automatically acclaimed once his or her work appears in print.

Much of counsel's brief is repeated from earlier submissions, as is demonstrated by the repeated erroneous references to the Journal of Electronic Imaging. Counsel does not overcome the grounds of denial simply by repeating earlier claims which, obviously, were not sufficient the first time to secure approval of the petition. Counsel's general arguments about the importance of China's economy do not demonstrate that the petitioner would benefit the United States to a greater degree than any other competent economist specializing in the economy of that part of the world.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States.

Review of the record, however, does not establish that the petitioner has distinguished himself as an economist to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence indicates that the petitioner shows talent as an economist, but is not persuasive that the petitioner's achievements set him significantly above almost all others in his field. It has not been shown that the petitioner's entry would substantially benefit prospectively the United States. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.